



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gustavo Siller, Jr.
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

| | | |
|-------------------------------|---|---------------------------|
| In re Patent No. 7,178,222 | : | |
| NAOYA HASEGAWA | : | DECISION FOR REQUEST |
| Issue Date: February 20, 2007 | : | FOR RECONSIDERATION |
| Application No. 10/655,942 | : | OF PATENT TERM ADJUSTMENT |
| Filed: September 5, 2003 | : | |
| Attorney Docket No. 9281-4591 | : | |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 29, 2007. Patentee requests that the patent term adjustment indicated in the patent be corrected from three hundred seventy-eight (378) days to five hundred forty-nine (549) days.

The request for reconsideration of the patent term adjustment under 35 U.S.C. 1.705(d) is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On February 20, 2007, the above-identified application matured into U.S. Patent No. 7,178,222, with a patent term adjustment of 378 days. The instant request for reconsideration, filed March 29, 2007, was timely filed within two months of the date the patent issued. See § 1.705(d). Patentee asserts that an additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

It is noted that 381 days were entered for Office delay in issuing the patent pursuant to 37 CFR 1.702(a)(1). This is the correct period of adjustment for the delay. It is further noted that the instant patent issued 3 years and 168 days after its filing date. However, any days of delay for Office issuance of the patent more than three years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether

periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 145(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 168 days attributable to the delay in issuance of the patent overlaps with the adjustment of 381 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment pursuant to § 1.702(b) was entered.

In view thereof, the patent term adjustment of 378 days (381 days of Office delay – 3 days¹ of applicant delay) indicated in the patent is correct.

The Office has charged the deposit account for \$200.00 fee set forth in 37 CFR 1.18(e), as requested. No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

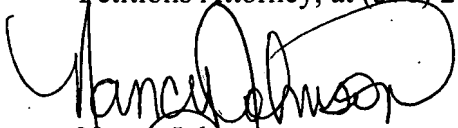
By Mail: Mail Stop Petition
 Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 ATTN: Office of Petitions

By Hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

Telephone inquiries regarding this decision may directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

¹ The period of reduction of 3 days for applicant delay is not in dispute.